



[3510-16-P]

**DEPARTMENT OF COMMERCE**

**United States Patent and Trademark Office**

**[Docket No.: PTO-P-2011-0078]**

**Sunset of the Patent Application Backlog Reduction Stimulus Plan and a Limited Extension of the Green Technology Pilot Program**

**AGENCY:** United States Patent and Trademark Office, Commerce

**ACTION:** Notice.

**Summary:** The United States Patent and Trademark Office (Office) has provided two procedures under which an applicant may have an application accorded special status for examination. The Patent Application Backlog Reduction Stimulus Plan is available if the applicant expressly abandons another copending unexamined application. The Green Technology Pilot Program is available to patent applications pertaining to environmental quality, energy conservation, development of renewable energy resources, and greenhouse gas emission reduction. In view of the trend in filings under the Patent Application Backlog Reduction Stimulus Plan, this plan has fulfilled its purpose and will not be extended. In view of the success of the Green Technology Pilot Program, this plan will be extended until 500 additional applications have been accorded special status under this program or until March 30, 2012, whichever occurs earlier. Following the expiration of this extension, the program will be

eliminated, and applicants may instead use the newly enacted Prioritized Examination (Track I) program. The Track I program not only provides advancement of examination, but sets a target of reaching final disposition within 12 months from the time advancement is initiated.

Furthermore, the advancement in the Track I program is available to all technologies and is not restricted to certain categories of invention as in the Pilot Program.

**DATES:** Effective Date: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The Patent Application Backlog Reduction Stimulus Plan became effective on November 27, 2009, was modified on June 24, 2010, and was extended on November 22, 2010. The Green Technology Pilot Program became effective on December 8, 2009, was modified to eliminate the classification requirement on May 21, 2010, and was extended on November 10, 2010.

**FOR FURTHER INFORMATION CONTACT:** Pinchus M. Laufer or Michael Cygan, Office of Patent Legal Administration, Office of the Associate Commissioner for Patent Examination Policy, by telephone at 571-272-7726 or 571-272-7700; or by mail addressed to: Mail Stop Comments Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

**SUPPLEMENTARY INFORMATION:** On November 27, 2009, the USPTO published a notice in the Federal Register providing an additional temporary basis (the Patent Application Backlog Reduction Stimulus Plan) under which a small entity applicant may have an application accorded special status for examination if the applicant expressly abandons another copending unexamined application. See Patent Application Backlog Reduction Stimulus Plan, 74 FR 62285 (Nov. 27, 2009), 1349 Off. Gaz. Pat. Office 304 (Dec. 22, 2009) (notice). The USPTO indicated that the plan would last for the period ending on February 28, 2010, but may be extended for an

additional time period thereafter. See Patent Application Backlog Reduction Stimulus Plan, 74 FR at 62287, 1349 Off. Gaz. Pat. Office at 306. The USPTO extended the plan for an additional four months to June 30, 2010. See Extension of the Patent Application Backlog Reduction Stimulus Plan, 75 FR 5041 (Feb. 1, 2010), 1351 Off. Gaz. Pat. Office 202 (Feb. 23, 2010). Subsequently, the USPTO expanded the plan to eliminate the small entity requirement and further extended its duration to expire at the earlier of the December 31, 2010 date, or the date that 10,000 applications have been accorded special status under this plan. See Expansion and Extension of the Patent Application Backlog Reduction Stimulus Plan, 75 FR 36063 (June 24, 2010), 1356 Off. Gaz. Pat. Office 173 (July 20, 2010). The USPTO further extended the plan to expire at the earlier of December 31, 2011, or the date that 10,000 applications have been accorded special status under this plan. See Extension of the Patent Application Backlog Reduction Stimulus Plan, 75 FR 71072 (Nov. 22, 2010), 1361 Off. Gaz. Pat. Office 230 (Dec. 28, 2010). Filings under this plan reached a peak in late 2010 and have since steadily decreased. Accordingly, as those desiring the benefits of this plan have taken advantage of its provisions, the Patent Application Backlog Reduction Stimulus Plan has run its course and will not be further extended beyond December 31, 2011.

On December 8, 2009, the USPTO published a notice for the implementation of the Green Technology Pilot Program. See Pilot Program for Green Technologies Including Greenhouse Gas Reduction, 74 FR 64666 (December 8, 2009), 1349 Off. Gaz. Pat. Office 362 (December 29, 2009) (Green Technology Notice). The Green Technology Notice indicated that an applicant may have an application advanced out of turn (accorded special status) for examination, if the application pertained to green technologies and met other requirements specified in the Green Technology Notice. The USPTO published a notice eliminating the classification requirement of the Green Technology Pilot Program on May 21, 2010. See

Elimination of the Classification Requirement in the Green Technology Pilot Program,

75 FR 28554 (May 10, 2010), 1355 Off. Gaz. Pat. Office 188 (June 15, 2010). The USPTO further extended the program to expire at the earlier of December 31, 2011, or the date that 3,000 applications have been accorded special status under this program. See Expansion and Extension of the Green Technology Pilot Program, 75 FR 69049 (Nov. 10, 2010), 1361 Off. Gaz. Pat. Office 50 (Dec. 7, 2010). In view of the success of the Green Technology Pilot Program in the designated technology areas, the Green Technology Pilot Program will be extended until an additional 500 applications have been accorded special status under this program (for a total of 3,500 applications) or March 30, 2012, whichever occurs earlier. Following the expiration of this extension, the program will be eliminated, and applicants may instead seek to use the newly enacted Prioritized Examination (Track I) program.

The Prioritized Examination (Track I) program permits an applicant to have an application advanced out of turn (accorded special status) for examination under 37 CFR 1.102(e), if the application contains, upon filing, a request for prioritized (Track I) examination accompanied by the appropriate fees. See Changes to Implement the Prioritized Examination Track (Track I) of the Enhanced Examination Timing Control Procedures Under the Leahy-Smith America Invents Act, 76 FR 59050 (September 23, 2011), 1371 Off. Gaz. Pat. Office 151 (October 18, 2011) (Track I Notice).

The Track I Program provides prioritized examination having a more aggressive time frame for examination than the Green Technology Pilot Program, with an aggregate goal of reaching final disposition within 12 months and maintains an enhanced special status of the application throughout prosecution until final disposition. Additionally, the Track I Program does not have the restrictions of the Green Technology Pilot Program on the types of inventions for which

special status may be sought, as the Track I Program does not require a connection to any particular technology.

In view of the ability of any applicant to request prioritized examination with the filing of an application under the procedure set forth in the Track I Notice, the Green Technology Pilot Program will not be extended past the earlier of March 30, 2012, or the date that 3,500 applications have been accorded special status under this program.

Date: December 7, 2011

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Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office

[FR Doc. 2011-32115 Filed 12/14/2011 at 8:45 am; Publication Date: 12/15/2011]